IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

RP.No. 951 of 2006(W)

AGAINST THE JUDGEMENT IN WPC.27071/2006 Dated 26/10/2006

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: PETITIONER

K.P.ASHARAF, KARIMUTTATHU VEEDU,
WARD NO.5, MANNANCHERRY GRAMA PANCHAYATH,
ALAPPUZHA DISTRICT.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN
SRI.M.R.ARUN KUMAR

RESPONDENTS:

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1. MANNANCHERRY GRAMA PANCHAYATH,
REP. BY ITS SECRETARY,
MANANCHERRY, ALAPPUZHA DISTRICT.

2. STATE OF KERALA,
REP. BY THE SECRETARY TO LOCAL ADMINISTRATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.V.MANUVILSAN, SC
SRI.P.C.ANIL KUMAR
GOVERNMENT PLEADER SRI.K.J.MOHAMMED ANSAR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 02/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

R.P. No. 951 OF 2006

Dated this the 2nd day of March, 2007

JUDGMENT

Heard Sri.Sanal Kumar, counsel for the petitioner and Sri. C.V. Manuvilson, Standing Counsel for the Panchayat. The Standing Counsel would seriously refute the submissions of the counsel for the petitioner that the issue is covered by judgment in WP(C) No.18119 of 2006. According to him, the judgment in **Thomas Paul and another V. State of Kerala & others** (2006 (3) KLJ 777) cannot be applied in this case because the parties in that petition had already exhausted statutory remedies before approaching this Court.

2. Even though Sri.Sanal Kumar, learned counsel for the petitioner submits that the issue which is raised through the Writ Petition is the same as that of the case decided by this Court by judgment in WP (C) No.18119 of 2006, it is to be noticed that, in that case the petitioners therein had approached this Court only after exhausting their statutory appellate remedies.

3. The learned counsel for the petitioner further submits that since the petitioner has attributed malafides to the members of the Committee in paragraph 4 of the Writ Petition, it will be very embarrassing for the petitioner to file appeal before them. But I find that if the principles laid

down by the judgment in Thomas Paul's case(supra)applies, it may not be necessary for the Panchayat to go into other factual aspects. The crux issue which has to be considered by the appellate committee will be whether any notification has been duly published in respect of the road upon the building has been constructed by the review petitioner.

Under these circumstances, I dismiss the Review Petition. However, I further direct that if an appeal is preferred by the review petitioners against Ext.P5 within two weeks of receiving copy of this judgment, such appeal will be entertained by the committee as one filed on time and dispose of in accordance with law. Till such time as the prospective appeal is disposed of by the Committee, the implementation of Ext.P10 will be kept in abeyance.

PIUS C. KURIAKOSE, JUDGE

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